

Remarks

Claim Status

By this amendment, claims 1, 3, 4, 30, and 31 are amended, claim 34 is canceled without prejudice or disclaimer, and new claims 35 and 36 are added by this response. Claims 1, 3-5, 26-33, 35, and 36 are pending.

Claim Rejections - 35 USC § 112

Claim 30 has been amended to depend from claim 3, which provides antecedent basis for “said sleeves” and “said posts” recited in claim 30. Applicant respectfully submits that amended claim 30 is definite.

Claim Rejections 35USC §§ 102 and 103

The Office Action rejected claim 1 as being anticipated by U.S. Patent No. 6,823,869 to Raje et al. (herein “Raje et al.”). The Office Action rejected claim 3 as being unpatentable over Raje et al. in view of U.S. Patent Application Publication Pub. No. 2002/0100479 to Scarberry et al. (herein “Scarberry et al.”). The Office Action rejected claims 4-5, 26-29, 31, 32, and 34 as being unpatentable over U.S. Patent No. 7,007,696 to Palkon et al. (herein “Palkon et al.”) in view of U.S. Patent No. 2,133,699 to Heidbrink (herein “Heidbrink”). The Office Action rejected claim 3 as being unpatentable over Raje et al. in view of Scarberry et al. and U.S. Patent No. 5,227,173 to Sherwood (herein “Sherwood”).

Claim 1

Applicant respectfully submits that amended claim 1 is patentable over the applied references, because amended claim 1 recites features that are not disclosed or suggested by the combined teachings of the applied references. For example, claim 1 recites that a retaining flange that extends transverse to a cushion tongue and a notch of a retaining ring are configured such that the tongue is repeatably insertable into a gap between a side wall of a shell and the retaining ring while the retaining ring is secured to the shell so that the retaining flange of the tongue engages the notch of the retaining ring to secure the cushion to the shell and the retaining

flange of the tongue is repeatably removable from the notch of the retaining ring while the retaining ring is secured to the shell to remove the cushion from the shell.

Applicant respectfully submits that Raje et al. does not disclose or suggest that the retaining lip 522 could possibly be installed on the retaining ring 510 while the retaining ring 510 is secured to the shell 40. In Raje et al., to assemble the cushion 30 to the shell 40, the cushion is first mounted on the retaining ring and then the assembled retaining ring/cushion assembly is snapped onto the shell to secure the assembly to the shell. See Raje et al., col. 26, ll. 7-28. The remainder of the applied references do not disclose a retaining ring that is secured to a shell such that a gap is formed between the retaining ring and the shell. Applicant respectfully submits that amended claim 1 is in condition for allowance.

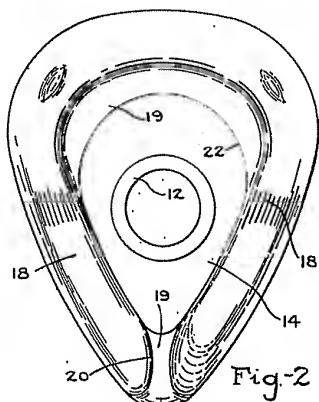
Amended claim 3 depends from claim 1 and is allowable for at least the reasons claim 1 is allowable.

Amended claim 30 depends from claim 3 and is allowable for at least the reasons claim 1 is allowable.

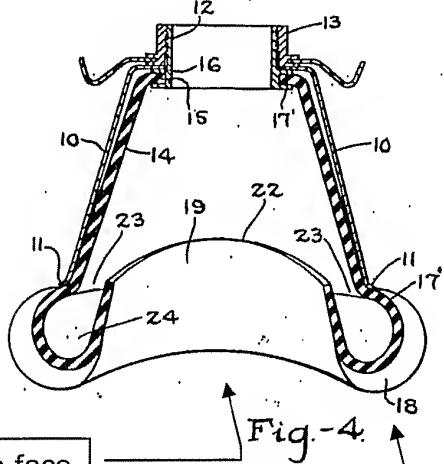
Claim 4

Applicant respectfully submits that amended claim 4 is patentable over the applied references, because amended claim 4 recites features that are not disclosed or suggested by the combined teachings of the applied references. For example, amended claim 4 recites that a cushion inner wall defined by first and second sides that are spaced apart by a thickness of the inner wall is spaced apart from a cushion outer wall having a first side adapted to engage and seal against a face of a user of the mask, where both sides of the inner wall of the cushion are discontinuous in a nasal bridge region of the cushion, such that a gap is formed between ends of the inner wall in the nasal bridge region of the cushion.

As the Office Action points out, Palkon lacks the teaching of an inner wall of a cushion that is discontinuous. Figures 2 and 4 of Heidbrink are presented below to illustrate that Heidbrink does not disclose a mask cushion inner wall as recited by claim 4.



18 Discontinuous,
19 Continuous



User's face
engages
this side of
mask.

18 Outside,
19 Inside

Heidbrink discloses a rubber face piece 14 that includes an outer bulge 18 (outer layer) that is shaped to fit the face of a wearer and an extensive flap 19 (inner layer). The Office Action identified the inner side of the outer bulge 18 as an inner wall.

Claim 4 has been amended to recite that the inner and outer walls each have first and second sides. Both sides of the claimed inner wall are discontinuous in a nasal bridge region of the cushion, such that a gap is formed between ends of the inner wall in the nasal bridge region of the cushion. Both sides of the claimed outer wall of the cushion extend from the side wall completely around the cushion.

As is clearly shown in Figure 2 of Heidbrink, the extensive flap 19 (inner layer) is continuous all the way around the face piece and is therefore continuous in the nasal bridge area. In Heidbrink, the bulge 18 is discontinuous in the nasal bridge area. Applicant respectfully submits that this is the opposite of the inner and outer wall arrangement recited by claim 4.

Amended claim 4 is patentable over the combined teachings of the applied references.

Claims 5, 26-29, 31, and 32 depend from claim 4 and are allowable for at least the reasons claim 4 is allowable.

Claim 33

Applicant respectfully submits that amended claim 33 is patentable over the applied references, because amended claim 33 includes features that are not disclosed or suggested by the combined teachings of the applied references. Similar to claim 1, claim 33 features a retaining flange that extends transverse to a cushion tongue and a notch of a retaining ring are configured such that the tongue is repeatably insertable into a gap between a side wall of a shell and the retaining ring while the retaining ring is secured to the shell so that the retaining flange of the tongue engages the notch of the retaining ring to secure the cushion to the shell and the retaining flange of the tongue is repeatably removable from the notch of the retaining ring while the retaining ring is secured to the shell to remove the cushion from the shell. Applicant respectfully submits that amended claim 33 is in condition for allowance.

New Claims

Applicant respectfully submits that new claim 35 is patentable over the applied references, because new claim 35 recites features that are not disclosed or suggested by the combined teachings of the applied references. For example, new claim 35 recites inserting a tongue of the cushion into said gap between a retaining ring and a shell while the retaining ring is secured to the shell so that a retaining flange of the cushion that extends transverse to the tongue engages the notch to secure said cushion to said shell. Applicant respectfully submits that new claim 35 is in condition for allowance.

New claim 36 depends from claim 35 and is allowable for at least the reasons claim 35 is allowable.

Prosecution Independent from Related Applications

Since the present application is a continuation of one or more previously filed applications and/or patents and specifically seeks claims of differing scope than in the parent application(s) and/or patent(s), Applicant presumes that the examination of the present claims was and is being conducted by giving the claims their broadest reasonable interpretation and without reliance on or incorporation of any arguments or amendments or other prosecution history related to the claims of the parent application(s) and/or patent(s). Any such arguments or amendments or other prosecution history that may have occurred in the parent application(s) and/or patent(s) are not intended to limit the scope of the present claims or to affect their interpretation or construction.

Applicant requests reconsideration and allowance of this application in view of the foregoing amendments, remarks, and all prior art that is of record in the present application.

Date: May 4, 2009	Respectfully submitted <u>/ken smith/</u> Kenneth J. Smith, Registration No. 45,115 Customer No. 24024 Telephone: 216-622-8674
-------------------	--